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5 *Attorney for Debtors*

6  
7 UNITED STATES BANKRUPTCY COURT  
8 FOR THE DISTRICT OF MONTANA

9 In Re

10 **ERNEST WOODROW BARSTAD**  
11 **and CHRISTINE RAGAN**  
**BARSTAD,**

12 Debtors

Case No. **17-60586**

13  
14 **ERNEST WOODROW BARSTAD**  
15 **and CHRISTINE RAGAN**  
**BARSTAD,**

16 Plaintiffs,

17 vs.

18 **GLENN DAVIDSON, and TOM**  
19 **IDE, individually, ALBERT**  
20 **BURNEY, Inc., an Alabama**  
21 **Corporation, and RIVERBEND**  
**REALTY, LLC, a Montana**  
22 **corporation,**

23 Defendants.

Adv. Proc. **17-**\_\_\_\_\_

24 **NOTICE OF REMOVAL**

25 Pursuant to 28 U.S.C. § 1452(a), the Defendants, Ernest Woodrow Barstad  
26 and Christine Ragan Barstad [hereinafter Barstads], hereby give Notice of  
27 Removal of two Montana District Court cases involving the Barstads to the United  
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1 States Bankruptcy Court for the District of Montana. Pursuant to the requirements  
2 of Fed. R. Bankr. P. 9027(a), the Barstads provide the following background and  
3 reasons for removal:

4 (1) There are two cases in Montana Third Judicial District Court, Powell  
5 County involving Debtors. On August 11, 2016, the Barstads were sued by Glenn  
6 Davidson (Cause No. DV-16-68). Tom Ide also sued the Barstads. (Cause No.  
7 DV-16-69). The state court consolidated these two cases under **Cause No. DV-**  
8 **16-68.**

9 (2) In the second case to be removed, on February 15, 2017, the Barstads  
10 filed their Complaint against Glenn Davidson, Tom Ide, Albert Burney, Inc. and  
11 Riverbend Realty, LLC (**Cause No. DV-17-12**).

12 (3) The two cases arises from the 2016 auction and purported sale of  
13 Debtors' Montana residential real property. Debtors' Montana home is located on  
14 320 acres of real property located at 3401 Dry Gulch Road in Ovando, Montana.  
15 The Barstads contracted with Albert Burney, Inc. ("Burney"), an auction company,  
16 to conduct an auction to sell their property. That auction was held on June 30,  
17 2016. Bidders Glenn Davidson ("Davidson") and Tom Ide ("Ide") each provided  
18 their bid deposits in the amount of \$50,000.00 in funds that were deemed  
19 acceptable by Burney. The Barstads' property was auctioned as two separate  
20 parcels. Burney declared Davidson the winning bidder for Parcel 1 and Ide the  
21 winning bidder for Parcel 2. A dispute has arisen between the parties regarding  
22 whether the sale is valid, whether the auction company and real estate company  
23 took proper action with the sale, and whether the Barstads must perform under the  
24 Buy Sale Agreements.

25 (4) On June 15, 2017, Woodrow and Christine Barstad filed a Chapter 13  
26 bankruptcy petition with the United States Bankruptcy Court for the District of  
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28

1 Montana. The petition was assigned Bankruptcy Case No. 17-60586. On August  
2 11, 2017, Glenn Davidson and Tom Ide filed an Adversary Complaint in  
3 Bankruptcy Court asking for declaratory relief and specific performance relating  
4 to the sale of the property, which is the dispute in the Montana state court.

5 (5) The district court has jurisdiction under § 1334 of Title 28 over the  
6 claims and causes of action removed; and the proceeding is a civil action other  
7 than a proceeding before the Tax Court or a civil action by a governmental unit to  
8 enforce the government unit's police or regulatory power. (See 28 U.S.C.A. §  
9 1452(a)).

10 (6) This Notice of Removal is timely under Fed. R. Bankr. P. 9027(a)(2) as  
11 the claim or cause of action in a civil action is pending when a case under the  
12 Code is commenced, a notice of removal may be within 90 days after the order for  
13 relief in the case under the Code.

14 (7) The underlying civil actions are pending in Montana state court in  
15 Powell County, making the United States Bankruptcy Court for the District of  
16 Montana, Butte Division, the appropriate court to which this matter should be  
17 removed. Pursuant to a first-day Motion to Change Venue, the instant bankruptcy  
18 case was transferred to the Missoula division, which is the most convenient forum  
19 for all parties.

20 (8) The Barstads are entitled to remove these two cases because the  
21 determination of the rights between the parties listed is inextricably intertwined  
22 with the Barstads' reorganization plan and a resolution of all the competing claims  
23 between the parties;

24 (9) This is a core proceeding pursuant to the following subsections of 28  
25 U.S.C. § 157(b)(2): B, C, E, F, K, L, & O.

1 (10) The undersigned is filing and serving a related Notice of Removal in  
2 the state court along with this Notice on all counsel of record.

3 (11) Due to the complex nature and history of the state court litigation, it is  
4 not practical to file all of the process and pleadings in the two state court cases at  
5 the same time as this Notice is filed. The documents can be provided within 14  
6 days.

7 WHEREFORE, Defendants, Ernest Woodrow Barstad and Christine Ragan  
8 Barstad notifies you that **Cause No. DV-16-68 and Cause No. DV-17-12**,  
9 formerly pending in the Montana Third Judicial District Court, Powell County,  
10 Montana, have been removed to the United States Bankruptcy Court for the  
11 District of Montana, Missoula Division. The Barstads have also filed Notices of  
12 Removal with the Third Judicial District Court, Powell County, Montana,  
13 requesting that the Clerk of that Court forward the original case file to this Court,  
14 and are serving those Notices contemporaneously.

15 DATED this 13<sup>th</sup> day of September, 2017.

16 MORGAN PIERCE, PLLP

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18 By: /s/ Daniel S. Morgan  
Daniel S. Morgan

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I ALSO HEREBY CERTIFY under penalty of perjury that on the same date stated above, I mailed by first-class U.S. mail, postage prepaid, a copy of the foregoing pleading to:

**Jill Gerdrum**  
**AXILON LAW OFFICE, PLLC**  
**Millennium Building, Suite 403**  
**125 Bank Street**  
**Missoula, MT 59802**

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